IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Bail Appl..No. 3958 of 2007()

CRIME NO.168/2007 OF CHIRAYINKIL POLICE STATION

: PETITIONER/1ST ACCUSED

UNNI, S/O.RATHEESAN,
KANNATHU VILAKOM VEEDU, KIZHUVILAM,
KOONTHALLOOR VILLAGE, CHIRAYINKIL.

BY ADV. SRI.M.DINESH

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3958 of 2007

Dated this the 2nd day of July, 2007

ORDER

Petitioner is the 1st accused in a crime registered under Section 394 I.P.C. The crux of the allegations against the petitioner is that he along with co-accused allegedly trespassed into the premises of the defacto complainant, where he runs a cassette shop. An employee of the defacto complainant was available. He was assaulted. An amount of Rs.2,000/- and a number of C.D cassettes, which were available in the shop, were allegedly taken away using force. The employee reported the matter to the defacto complainant, who on the next day filed the F.I statement. The petitioner is named in the F.I.R. Investigation is in progress. The 2nd accused has already been arrested. Part of the booty has been recovered on the basis of his confession statement. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is young, is innocent and that the allegations are raised falsely without any bona fides. The learned Public Prosecutor opposes the said prayer. He submits that the investigation reveals the complicity of the petitioner. He further submits that the petitioner is required to be arrested in another similar case of the same police station, ie. Crime No.170 of 2007. In these circumstances,

anticipatory bail may not be granted to the petitioner submits the learned Public Prosecutor.

3. I am not satisfied, on an anxious consideration of all the relevant inputs, that this is a fit case, where the extraordinary equitable discretion under Section 438 Cr.P.C can or ought to be invoked in favour of the petitioner. This is an eminently fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. He must then seek regular bail in the ordinary course.

4. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigator or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-